



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Release Number: **201203018**
Release Date: 1/20/2012
Date: October 26, 2011
UIL Code: 501.06-01

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear

This is our final determination that you do not qualify for exemption from federal income tax as an organization described in Internal Revenue Code section 501(c)(6). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your federal income tax status and responsibilities, please contact IRS Customer Service at

Letter 4040(CG) (11-2005)
Catalog Number 47635Z

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

Letter 4040(CG) (11-2005)
Catalog Number 47635Z



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224**

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: August 30, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

N = organization
O = state
Q = date
R = date
S = company
T = number
U = number

UIL:

501.06-00
501.06-01

Dear

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(6). The basis for our conclusion is set forth below.

Issues

Are you providing particular services to your members and not furthering the common business interests of a particular industry thereby disqualifying you from exemption under section 501(c)(6) of the Code? Yes, for the reasons described below.

Letter 4034(CG) (11-2005)
Catalog Number 47628K

Facts

You were incorporated in the State of O on Q. Your articles of incorporation state you were formed to promote the common business interests of your members. Your twelve board members are employed by technology companies, venture capital management companies and educational institutions. Section One, Article V, of your revised bylaws provides:

There shall be one class of members. There shall be no distinction between memberships; all members shall have the same rights, preferences, limitations and restrictions and each member shall have one vote in corporate affairs. An organization or individual may only become a member by invitation of the Board of Directors, which shall extend invitations only to those it believes, in its sole discretion, will contribute to the mission and purposes of the Corporation.

You have T individual members and U member organizations. Your membership spans 43 states and four countries. Thirty-five percent of your members represent state and regional economic development agencies, 35 percent are public and private seed funds and 30 percent are incubators/university tech transfer organizations. Your purpose is to "

On your website you list various benefits available only to your members which include the following:

•
Additionally, your website states, "
where companies may seek capital.

". Your website then lists nine organizations

To further your purposes, you allocate your time to the following activities:

Activity	Percentage of Time
Annual Conference	75 %
Newsletters	10%
Economic Impact Studies	8%
Training Sessions	5%
	1%
Negotiations with S	1%
Total	100%

You described your conference as your most important networking event. You explained that “

organizations track new approaches and resources.” Further, “participants meet with professionals from outside their local networks, making one-on-one contact with

” At your two and a half day annual conference you offer various lectures and panels on topics including trends in innovation capital, women in entrepreneurship, building early stage businesses, pitching new technologies to the experts, and connecting entrepreneurs with opportunities, among others. The majority of the lectures focus on investors and entrepreneurs, however, you do present two lectures that pertain to government involvement in economic development. One of your sessions includes an opportunity for start-up companies to make their sales pitch to the audience of potential investors. Along with a wine and cheese reception, your conference features at least three networking breaks.

The sample newsletter you submitted contains various articles regarding new technologies and investments. Your training sessions

.” Participants in this event learn practical tools for identifying, analyzing, pricing, structuring and negotiating seed investments. These training sessions are generally offered during your annual conference. You describe the as a service available to your members wherein they may write to you and ask questions regarding seed and early-stage capital. You explained that experts in the field, including members of your board, answer the questions. The economic impact studies are paid for by organizations or members who are interested in the information the study will produce and are distributed only to those organizations or members who paid for the studies.

According to your website, S is the world's leading deal flow management and collaboration software publisher. This software allows users to manage all current and future deals in their portfolio. In addition, S will include support for its platform on the public-facing portion of your website and will provide additional private discussion and social networking areas on the members-only portion of your website. Your negotiation with S allows all dues paying members access to this software. Your agreement with S describes you as, "

." According to your agreement S has "

." You stated that your strategic alliance agreement with S would be beneficial to both you and S, "

You are funded by conference sponsorships, member dues, conference fees, advertisements in your newsletters, and miscellaneous other income. You did not explain what companies receive in return for their sponsorship fees. Your primary expense is payroll for your two employees. In addition, you pay for various travel and entertainment expenses incurred by your employees. Other expenses include conference expenses, marketing and various administrative expenses.

Law

Section 501(c)(6) of the Internal Revenue Code, ("Code") provides that organizations organized as business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual may be exempt from federal income tax.

Treasury Regulation 1.501(c)(6)-1 A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-

sustaining, is not a business league. An association engaged in furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated.

Rev. Rul. 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses is performing particular services, for individual persons. Such organization, therefore, is not entitled to exemption under section 501(c)(6) of the Code as a business league even though it performs functions which are of benefit to the particular industry and the public generally. The activities of the organization consisted of the maintenance of plan rooms for the convenience of members, where plans and specifications for local construction projects, together with the names of general contractors bidding of specific projects, are filed.

Rev. Rul. 59-391, 1959-2 C.B. 151, holds that an organization whose membership consists of individuals, firms, associations, and corporations, each of whom represents a different trade, business occupation, or profession, and created for the purpose of exchanging information on business prospects does not qualify for exemption under section 501(c)(6) of the Code. Part of the rationale for the ruling is that the members have no common business interest other than a mutual desire to increase their individual sales.

Rev. Rul. 67-295, 1967-2 C.B. 197, holds that an organization of businessmen holding luncheon meetings may qualify for exemption under section 501(c)(6) of the Code. The key to the determination is that the luncheon meetings are devoted to discussions, reviews, and considerations of the various problems in a particular industry.

Rev. Rul. 67-296 1967-2 C.B. 212, holds that an organization that qualifies for exemption under section 501(c)(6) of the Internal Revenue Code may conduct classes to improve the educational standards of the profession. This activity improves the business condition of one or more lines of business as a whole.

Rev. Rul. 68-264, 1968-1 C.B. 264 defines a particular service for the purposes of section 501(c)(6) of the Code as an activity that serves as a convenience of economy to the members of the organization in the operation of their own businesses. The revenue ruling also states that activities that constitute the performance of a particular services for individual persons may preclude exemption under section 501(c)(6) of the Code.

Rev. Rul. 70-641 1970-2 C.B. 119, involves an organization comprised of individuals from various professions in the field of public health. The organization's activities, which consist of lectures, seminars, and discussions, seek to provide an interdisciplinary forum for exchanging knowledge and information. The revenue ruling concludes that the organization's activities promote the members' common business interest by increasing the effectiveness of the interaction among the various professions and solving common business problems. The fact that the members represent various professions does not prevent the organization from qualifying for exemption under section 501(c)(6) of the Code because they share a common business interest in the field of public health.

Indiana Retail Hardware Assn., Inc. v. United States (1966), 177 Ct. Cl. 288 The organization in this case, conducted activities such as informational meetings but it also supplied to such of its members as wished to pay for them managerial services, weekly bookkeeping, quarterly audits, yearly preparation of Federal income tax returns, and other similar services. In this case, the Court held that when conducting particular services for members is a substantial activity of an organization, the organization will be precluded from exemption under section 501(c)(6) of the Code.

Glass Container Industry Research Corp. v. United States, 1970 U.S. Dist. LEXIS 13193 (W.D. Pa. 1970) The organization in this case was a membership organization for glass manufacturers representing approximately thirty percent of glass manufacuterers. The organization conducted research and made its research, patents and licenses available exclusively to its members, who were not permitted to share the results of the research with non-members. Since the information was not made available to the general public or an entire industry, the court found that the activities of the organization was performing a particular services for members, which disqualified from being classified as a business league under section 501(c)(6) of the Internal Revenue Code. In addition, the organization failed to qualify as a chamber of commerce or board of trade under section 501(c)(6). The court held that chambers of commerce and board of trade are organizations that engage in many diverse lines of business and promote and publicize the advantages of an area and the advantages of doing business in a particular city. Since the organization did not promote the advantages of doing business in a particular geographic area, it did not qualify as a chamber of commerce or board of trade under section 501(c)(6) of the Code.

Application of Law

Section 501(c)(6) of the Internal Revenue Code, provides that organizations organized as business leagues may be exempt from federal income tax. You connect investors, economic development organizations, public and private funds and tech transfer professionals, and were formed to promote investments in seed and early-stage companies. To further your purpose you provide a forum through your conference and

other activities where information is furnished to prospective investors in order to enable them to make sound investments. Although, you include educational lectures and workshops in your annual conference, you consistently explained that your purpose is to promote investments. In addition, you described your conference as your most important networking event. These facts show that you are formed to promote investment opportunities for your members rather than improving overall business conditions in the industry. As shown in Treasury Regulation 1.501(c)(6)-1, an association engaged in furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. Thus, you are not a business league and you are not furthering a common business interest and do not qualify under 501(c)(6).

Rev. Rul. 56-65 held that a local organization whose principal activity consisted of furnishing particular information and specialized individual services to its individual members to effect the operation of their individual businesses is performing particular services and was not entitled to exemption under section 501(c)(6). Your principal activity is your annual conference. At your conference you unite investors and start-up companies and provide them with information on how to succeed in their investments and business ventures. As your most important networking event, the purpose of your conference is to bring together investors and investees. To this end, you host sessions where start-up companies solicit investments in their business ventures and where attendees may make one-on-one contact with persons specializing in facility capital formation. By bringing together potential investors and investees you are performing particular services for members and/or their business. Organizations that perform services for individuals are precluded from exemption under section 501(c)(6) of the Code and for this reason you do not qualify.

Your operation is similar to that of the organization described in Rev. Rul. 59-391 in that the purpose of your members joining and attending your meetings is to increase their individual business opportunities. The basic holding in that revenue ruling is that the participants have no common business interest other than a mutual desire to increase sales. This is not sufficient to establish a common line of business for the purposes of section 501(c)(6) of the Code. Your membership is not made up of persons with a common business interest within the meaning of section 501(c)(6), but rather of persons desiring to increase their own personal wealth and organizations desiring to improve the economic conditions of their respective communities. Accordingly, you do not qualify for exemption under section 501(c)(6) of the Code.

The organizations described in Rev. Rul. 67-295 and Rev. Rul. 67-296 qualified for exemption under section 501(c)(6) of the Code. These revenue rulings refer to organizations discussing problems within an industry and raising the educational standards within a profession. You are distinguishable from these revenue rulings in

that while you do provide some educational aspects through your conference the overall purpose is to provide a forum for investors and investees to exchange information. Although you present two lectures that purport to address economic development issues, the majority of your conference, which is designed to be a networking event, is aimed at allowing individuals and companies to find investment and funding opportunities. Your ancillary activities, such as your _____, and your software arrangement with S further support the fact that you operate to help your members increase and manage their investments.

For the purposes of section 501(c)(6), Rev. Rul. 68-264 defines a particular service as an activity that serves as a convenience of economy to the members of the organization in the operation of their own businesses. In addition to your principal activity you conduct several other services for members. These services include your _____, economic impact studies, and the software provided through your negotiations with S, which allows members to manage their investments. As you explained in your application these features are customized or can be customized to meet the individual needs of your members. In addition, the economic impact studies that you provide are only available to the persons or organizations purchasing the same. Essentially all of your activities are providing services to members. Accordingly, you are precluded from exemption under section 501(c)(6) of the Code.

In Rev. Rul. 70-641 an organization qualified for exemption even though its members were from different professions. The members were in the same industry and worked together to solve problems common to the industry. Unlike the organization described in Rev. Rul. 70-641 your membership does not represent a specific industry nor various professions within a common business field. Your membership is composed primarily of investors, business owners, and individuals who wish to own a business and promote investment in seed and early-stage companies. Further, you are not solving problems common to an industry. Instead, you are operating a forum where members may receive business leads. Accordingly, you do not qualify for exemption under section 501(c)(6) of the Code.

In Indiana Retail Hardware Assn., Inc. v. United States the Court held that when conducting particular services for members is a substantial activity of an organization, the organization will be precluded from exemption under section 501(c)(6) of the Code. As discussed in the analysis of Rev. Rul. 56-65 and Rev. Rul. 68-264, above, essentially all of your activities are providing particular services for members. Accordingly, your organization does not qualify for exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code.

Similar to the organization in Glass Container Industry Research Corp., the services you offer such as your _____, your economic impact studies, and your software agreement with S are available only to your members and are not made available to the

general public or an entire industry. In addition, your conference provides a services to your members and participants by providing a forum where they may exchange investment ideas and business leads. Your activities do not further the common business interest of a line of business because Treasury Reg. 1.501(c)(6)-1 clearly precludes an organization furthering investment opportunities from qualifying as a business league under section 501(c)(6) of the Code. Although some of your members are state and regional economic development agencies, your organization does not promote economic development in particular geographic area. Your conferences and services may provide economic development organizations the opportunity to solicit businesses to invest in their respective regions, but your organization is not involved in promoting a particular geographic region as your members come from all across the country and even from other parts of the world. Accordingly, you do not qualify as a chamber of commerce or board of trade under section 501(c)(6) of the Internal Revenue Code.

Applicant's Position

You state that your mission is to promote the common business interest of persons or entities who make early-stage investments in local entrepreneurs and economies. Your focus is on increasing access to capital investors and entrepreneurs in so-called "flyover" regions that have been historically overlooked by mainstream venture capital investors. You present educational opportunities for your members. You acknowledge that your events provide a forum during which your members may find private opportunities, however, arranging such opportunities is neither your primary purpose or stated mission. You explained that the provision in your bylaws that limits membership to those invited by the board is an "artifact" from your early days and that membership is open to anyone involved in early stage innovation capital. You further explained that you expect the bylaws to be amended at the next board meeting.

Service Response to Applicant's Position

You explained that you want to promote the common business interests of investors, but did not explain what business interests they have in common. You further acknowledged that your events provide a forum for members to pursue private opportunities, although this is not your primary purpose. However, your conferences have sessions where early stage companies may make their sales pitch to potential investors and you hold several networking events throughout your conference. In addition you described your conference as your most important networking event. You explained that "

is clearly indicative of the fact that you are training people how to obtain capital and providing information about investment opportunities. An association engaged in furnishing information to prospective investors, to enable them to make sound

investments, is not a business league. You explain that your focus is on increasing access to capital investors and entrepreneurs in so-called "flyover" regions that have been historically overlooked by mainstream venture capital investors. While some of your members may represent various geographic areas, the activities described in your application and on your website do not advocate or promote investments in a particular geographic area. Instead, your activities focus on providing investment opportunities, information and services to state and economic development agencies, investors and investees. Details of your membership reveal that you have a national and even international focus and promoting investment in general not investment in a particular geographic area.

The bylaws that your representative described as an "artifact" from your early days are dated R, just a little more than five months before the filing of your application for exemption. The statement that your bylaws were an "artifact" from your early days was not signed by an officer or director of your organization. Further, the date by which you explained your bylaws would be amended has passed and you have not submitted amended bylaws for review. Even if membership in your organization was open and voluntary, you would not qualify for exemption since you are conducting an activity that is precluded from exemption, namely, you are furnishing information to prospective investors to make sound investment decisions, your members do not have a common business interest and your activities are primarily services for members.

Conclusion

Your purpose is to provide services for members that do not have a common business interest, mainly through a forum where members may find private investment opportunities. You do not promote the advancement of any particular line of business or the improvement of business conditions. Based upon the foregoing analysis, you do not qualify for recognition of exemption as an organization described in section 501(c)(6) of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". These items include:

1. The organization's name, address, and employer identification number;
2. A statement that the organization wants to appeal the determination;
3. The date and symbols on the determination letter;
4. A statement of facts supporting the organization's position in any contested factual issue;
5. A statement outlining the law or other authority the organization is relying on; and
6. A statement as to whether a hearing is desired.

The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure, Publication 892